

2012R00252/SUE

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Kevin McNulty
	:	
	:	Criminal No. 14-150 (KM)
v.	:	
	:	26 U.S.C. §§ 7206(2) & 7206(1)
WAYNE DUNICH-KOLB	:	18 U.S.C. §§ 1341 & 3147
	:	18 U.S.C. § 1028A(a)(1)
	:	18 U.S.C. § 2

SECOND SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNTS 1-12
(Aiding and Assisting in the Filing of False Tax Returns)

Background

1. At all times relevant to this Second Superseding Indictment unless
otherwise indicated:

(a) Defendant WAYNE DUNICH-KOLB (“DUNICH-KOLB”), a
resident of Montvale, New Jersey and former resident of Saddle River, was in
the business of preparing federal income tax returns and providing accounting
services for a fee under various entity names including Dunich-Kolb LLC;
Jadran Services Corporation; Adriatica Payroll Corporation; Adriatica Tax
Planning, LLC; and Adriatic Tax Planning LLC (collectively, the “Tax
Preparation Entities”).

(b) The Internal Revenue Service (“IRS”) was a bureau of the United States Department of Treasury that was responsible for the collection of federal income taxes and the enforcement of federal income tax laws.

(c) Defendant DUNICH-KOLB was the sole owner of and signatory for numerous business bank accounts at several different financial institutions such as T.D. Bank, Wells Fargo Bank, and Bank of America (collectively, the “Banks”), which he opened under various entity names such as Jadran Services Corp, Adriatica Payroll Corp, Adriatica Tax Planning LLC, Wonder Woman LLC, Dufus LLC, and Iva LLC. Defendant DUNICH-KOLB deposited the proceeds of his tax preparation business into one or more of these bank accounts and transferred the proceeds through various bank accounts that he controlled.

(d) The deposits of the Banks were insured by the Federal Deposit Insurance Corporation.

(e) Defendant DUNICH-KOLB, through one or more of his Tax Preparation Entities, prepared federal income tax returns for clients located in New Jersey, New York, Arizona, California, Florida, Texas, Oregon, Idaho, and elsewhere.

(f) Defendant DUNICH-KOLB represented to certain clients and others that he was a certified public accountant (“CPA”), notwithstanding a May 23, 1996 consent order entered into between the New Jersey State Board of Accountancy and defendant DUNICH-KOLB, requiring him to cease and desist from holding himself out to the public as a CPA.

(g) Up until in or about December 2012, defendant DUNICH-KOLB met with taxpayers at, and operated his tax preparation business from, his residence in Saddle River. Beginning in or about April 2015, defendant DUNICH-KOLB met with taxpayers at various locations in New Jersey, New York, and elsewhere, and prepared tax returns from his residence in Montvale, and elsewhere.

(h) Defendant DUNICH-KOLB used his computer to prepare taxpayers' federal income tax returns.

(i) Defendant DUNICH-KOLB maintained a P.O. Box in Las Vegas, Nevada, that he used in connection with, among other things, his tax preparation business.

The Tax Fraud Schemes

2. Defendant DUNICH-KOLB formed and caused the formation of partnerships and S corporations on behalf of certain clients, and then claimed various false and fraudulent business expenses associated with the partnerships and S corporations, in order to falsely reduce the clients' tax liability and to generate repeat tax preparation business for himself (the "Fraudulent Business Expense Scheme").

(a) In furtherance of the Fraudulent Business Expense Scheme, defendant DUNICH-KOLB prepared false and fraudulent federal business returns for the clients' businesses by fabricating and inflating business expenses, such as those for advertising, travel, and other miscellaneous expenses, in order to generate false and fraudulent business and partnership

Schedule K-1 losses, which losses defendant DUNICH-KOLB then used to substantially reduce the taxpayers' taxable income on their United States Individual Income Tax Returns; and

(b) Defendant DUNICH-KOLB prepared false and fraudulent United States Individual Income Tax Returns for taxpayers by fabricating and inflating Schedule E deductions for unreimbursed employee business expenses, such as for home office, vehicle mileage, and fuel expenses.

3. Defendant DUNICH-KOLB prepared false and fraudulent United States Individual Income Tax Returns and false and fraudulent federal United States Return of Partnership Income Tax Returns for taxpayers by fabricating and inflating the expenses and cost basis associated with his clients' rental properties for the purpose of substantially reducing the clients' taxable income and to generate repeat tax preparation business for himself (the "Fraudulent Rental Property Scheme").

(a) In furtherance of the Fraudulent Rental Property Scheme, defendant DUNICH-KOLB prepared false and fraudulent United States Individual Income Tax Returns and United States Return of Partnership Income Tax Returns for taxpayers by fabricating and inflating unreimbursed vehicle mileage and travel expenses purportedly associated with the clients' rental properties, even where those rental properties were located either within, or a short distance away from, their primary residence; and

(b) Defendant DUNICH-KOLB substantially inflated the cost basis that he used to calculate the depreciation for certain clients' rental properties.

4. For the tax years 2007 through and including 2016, defendant DUNICH-KOLB prepared United States Individual Income Tax Returns (original and amended), United States Return of Partnership Income Tax Returns, and United States Corporation Income Tax Returns, for numerous clients that contained fabricated and inflated expenses and deductions.

5. Defendant DUNICH-KOLB received substantial compensation from his clients for his preparation of the clients' federal income tax returns, in the form of checks made payable to defendant DUNICH-KOLB, one or more of his Tax Preparation Entities, and other payees. Defendant DUNICH-KOLB deposited and caused to be deposited these checks into bank accounts that he controlled.

6. On or about the dates set forth below, in Bergen County, in the District of New Jersey, and elsewhere, defendant

WAYNE DUNICH-KOLB

did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of United States Individual Income Tax Returns, Forms 1040 and 1040X, for the individuals and tax years identified below, which were false and fraudulent as to material matters, as identified in Paragraphs 2 through 4, above, knowing that the returns were false and fraudulent.

COUNT	TAXPAYER	TAX YEAR	DATE FILED (ON OR ABOUT)	FALSE REFUND CLAIMED (APPROX.)
1	M.V.	2007	5/19/2008	\$60,502
2	M.V.	2008	5/25/2009	\$66,666
3	M.V.	2009	6/21/2010	\$76,777
4	E.K.	2010	5/23/2011	\$97,734
5	J.M.	2010	7/18/2011	\$66,611
6	R.M.	2010	4/11/2011	\$57,406
7	J.N.	2011	5/14/2012	\$61,541
8	B.H.	2013	7/6/2016	\$13,183
9	A.S.	2014	7/26/2016	\$25,483
10	B.H.	2014	2/7/2017	\$14,084
11	B.H.	2015	4/25/2016	\$36,110
12	B.H.	2016	4/17/2017	\$36,212

In violation of Title 26, United States Code, Section 7206(2).

COUNTS 13-15
(Subscribing to False Tax Returns)

1. Paragraphs 1 and 5 of Counts 1 through 12, inclusive, are hereby repeated, realleged and incorporated as if fully set forth herein.

2. On or about December 27, 2010, defendant DUNICH-KOLB signed, filed, and caused to be filed with the IRS a 2006 United States Individual Income Tax Return on his own behalf. That return reported that his total income for the calendar year 2006 was \$400 in income from his business, Jadran Services Corporation ("Jadran Services Corp."). The tax return was not true and correct as to every material matter as defendant DUNICH-KOLB well knew, in that the return failed to disclose approximately \$500,602 in gross income that defendant DUNICH-KOLB received from his tax preparation and accounting business.

3. On or about January 3, 2011, defendant DUNICH-KOLB signed, filed, and caused to be filed with the IRS a 2007 United States Individual Income Tax Return on his own behalf. That return reported that his total income for the calendar year 2007 was \$526, including \$415 in income from his business, Jadran Services Corp., and \$111 in taxable interest. The tax return was not true and correct as to every material matter as defendant DUNICH-KOLB well knew, in that the return failed to disclose approximately \$656,640 in gross income that defendant DUNICH-KOLB received from his tax preparation and accounting business.

4. On or about January 3, 2011, defendant DUNICH-KOLB signed, filed, and caused to be filed with the IRS a 2008 United States Individual

Income Tax Return on his own behalf. That return reported that his total income for the calendar year 2008 was \$489, including \$425 in income from his business, Jadran Services Corp., and \$64 in taxable interest. The tax return was not true and correct as to every material matter as defendant DUNICH-KOLB well knew, in that the return failed to disclose approximately \$638,007 in gross income that defendant DUNICH-KOLB received from his tax preparation and accounting business.

5. The 2006, 2007, and 2008 tax returns were signed by defendant DUNICH-KOLB and contained a written declaration that they were signed under the penalties of perjury.

6. On or about the dates set forth below, in Bergen County, in the District of New Jersey, and elsewhere, defendant

WAYNE DUNICH-KOLB

knowingly and willfully did make and subscribe United States Individual Income Tax Returns, Forms 1040, for the tax years set forth below, which he did not believe to be true and correct as to every material matter, as described in Paragraphs 2 through 4 of Counts 13 through 15.

COUNT	TAX YEAR	DATE FILED (ON OR ABOUT)	GROSS INCOME (APPROX.)	FALSE REFUND CLAIMED (APPROX.)
13	2006	12/27/2010	\$501,002	\$63
14	2007	1/3/2011	\$657,055	\$12,835
15	2008	1/3/2011	\$638,432	\$25,638

In violation of Title 26, United States Code, Section 7206(l).

COUNTS 16-27
(Mail Fraud)

1. The allegations set forth in Paragraphs 1 through 5 of Counts 1 through 12, inclusive, are hereby repeated, realleged and incorporated as if fully set forth herein.

2. From on or about April 17, 2014 through the date of this Second Superseding Indictment, defendant DUNICH-KOLB was on pretrial release pending trial on these charges as ordered by the Honorable Joseph A. Dickson, pursuant to 18 U.S.C. § 3141.

3. From in or about March 2016 through in or about September 2017, in Bergen County, in the District of New Jersey, and elsewhere, defendant

WAYNE DUNICH-KOLB

while on pretrial release pursuant to 18 U.S.C. §§ 3141, et seq., did knowingly and intentionally devise and intend to devise schemes and artifices to defraud the IRS, and to obtain money and property from the IRS by means of materially false and fraudulent pretenses, representations, and promises, and the concealment of material facts.

4. The schemes to defraud operated in substance in the following manner:

a. As described in Paragraphs 2 through 4 of Counts 1 through 12, defendant DUNICH-KOLB prepared false and fraudulent federal income tax returns in furtherance of the Fraudulent Business Expense Scheme

and the Fraudulent Rental Property Scheme in order to falsely reduce his clients' tax liability and to generate repeat tax preparation business for himself.

b. In furtherance of the Fraudulent Business Expense Scheme and the Fraudulent Rental Property Scheme, and while on pretrial release, defendant DUNICH-KOLB concealed his preparation of his clients' false and fraudulent federal income tax returns by whiting-out, deleting, and erasing the paid-preparer signature line of the returns, in an attempt to mask that he had prepared the false and fraudulent federal income tax returns through one or more of his Tax Preparation Entities.

c. As a result of the false and fraudulent federal income tax returns that defendant DUNICH-KOLB filed and caused to be filed for his clients in furtherance of the Fraudulent Business Expense Scheme and the Fraudulent Rental Property Scheme, the IRS issued refund checks to his clients that were in excess of the refunds, if any, to which the clients were entitled (collectively, the "False Refund Checks").

d. Defendant DUNICH-KOLB caused certain False Refund Checks and other IRS refund checks payable to clients of the defendant, including, but not limited to, the refund checks for a deceased taxpayer, D.D., to be mailed to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada, and then mail-forwarded to his residence in Montvale, New Jersey (collectively, the "Diverted Refund Checks"). Defendant DUNICH-KOLB then deposited and caused to be deposited the Diverted Refund Checks into bank accounts that he

controlled, and converted the funds to his own personal use (the “Diverted Refund Scheme”).

5. On or about the dates set forth below, for the purpose of executing the schemes and artifices described in Paragraphs 4(a)-4(d) above, and attempting to do so, in the District of New Jersey and elsewhere, defendant

WAYNE DUNICH-KOLB

while on pretrial release pursuant to 18 U.S.C. §§ 3141 et seq., did knowingly and willfully deposit and cause to be deposited to be sent and delivered by the United States Postal Service, and by private and commercial interstate carriers, and did place and cause to be placed in authorized depositories for mail matter, and cause to be taken and received therefrom, and cause to be delivered by such carrier and by mail, the matters and things described below, each constituting a separate count of this Second Superseding Indictment:

COUNT	APPROX. DATE	FALSE REFUND CLAIMED OR PAID (APPROX.)	DESCRIPTION
16	3/18/2016	\$10,134	Defendant DUNICH-KOLB prepared a false and fraudulent 2012 Amended United States Individual Income Tax Return for taxpayer B.H., and mailed and caused the return to be mailed from Cliffside Park, New Jersey to the IRS in Kansas City, Missouri, via the United States Postal Service.
17	3/28/2016	\$23,082	Defendant DUNICH-KOLB prepared a false and fraudulent 2015 United States Return of Partnership Income for taxpayer A.S., which claimed partnership losses that reduced the claimed taxable income on the 2015 United States Individual Income Tax Return for taxpayer A.S., and defendant DUNICH-KOLB mailed and

			caused the partnership return to be mailed from Park Ridge, New Jersey to the IRS in Cincinnati, Ohio, via the United States Postal Service.
18	4/1/2016	\$15,544	Defendant DUNICH-KOLB prepared a false and fraudulent 2012 Amended United States Individual Income Tax Return for taxpayer A.S., and mailed and caused the return to be mailed from Cliffside Park, New Jersey to the IRS in Kansas City, Missouri, via the United States Postal Service.
19	12/23/2016	\$40,075	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to taxpayer J.S. for tax year 2013; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
20	12/23/2016	\$12,112	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to taxpayer J.S. for tax year 2015; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
21	2/3/2017	\$39,339	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to taxpayer W.K. for tax year 2014; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in

			Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
22	2/10/2017	\$20,213	Defendant DUNICH-KOLB prepared a false and fraudulent 2013 Amended United States Individual Income Tax Return for taxpayer A.S., and mailed and caused the return to be mailed from Cliffside Park, New Jersey to the IRS in Kansas City, Missouri, via the United States Postal Service.
23	3/10/2017	\$18,860	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to taxpayer W.K. for tax year 2013; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
24	4/12/2017	\$32,173	Defendant DUNICH-KOLB prepared a false and fraudulent 2016 United States Return of Partnership Income for taxpayer A.S., in which defendant DUNICH-KOLB claimed partnership losses that reduced the claimed taxable income on the 2016 United States Individual Income Tax Return for taxpayer A.S., and defendant DUNICH-KOLB mailed and caused the partnership return to be mailed from Hillsdale, New Jersey to the IRS in Cincinnati, Ohio, via the United States Postal Service.
25	6/6/2017	\$6,142	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to J.L. and deceased taxpayer D.D. for tax year 2014; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward

			the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
26	6/9/2017	\$6,082	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to J.L. and deceased taxpayer D.D. for tax year 2013; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.
27	9/1/2017	\$1,538	Defendant DUNICH-KOLB caused (i) the IRS to issue a refund check made payable to taxpayer J.S. for tax year 2014; (ii) the IRS to mail the refund check to defendant DUNICH-KOLB's P.O. Box in Las Vegas, Nevada; and (iii) the U.S. Postal Service to mail-forward the refund check to defendant DUNICH-KOLB's residence in Montvale, New Jersey. Defendant DUNICH-KOLB then deposited the refund check into a bank account that he controlled and diverted the funds for his own personal use.

In violation of Title 18, United States Code, Sections 1341 and 3147, and Title 18, United States Code, Section 2.

COUNTS 28-29
(Aggravated Identity Theft)

1. The allegations set forth in Paragraphs 1 through 5 of Counts 1 through 12, inclusive, and the allegations set forth in the table in Counts 25 and 26 of this Second Superseding Indictment, are realleged and incorporated as if fully set forth herein.

2. On or about the dates set forth below, in Bergen County, in the District of New Jersey, and elsewhere, defendant

WAYNE DUNICH-KOLB

did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, namely the social security numbers of D.D. and J.L. on IRS Forms 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, during and in relation to felony violations of mail fraud, in violation of Title 18, United States Code, Section 1341, as charged in Counts 25 and 26 of this Second Superseding Indictment:

COUNT	APPROX. DATE	DESCRIPTION
28	12/30/2016	Defendant DUNICH-KOLB submitted and caused to be submitted to the IRS, an IRS Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, for Tax Year 2013, bearing deceased taxpayer D.D.'s social security number and taxpayer J.L.'s social security number, and claiming D.D.'s refund should be remitted to taxpayer J.L. at defendant DUNICH-KOLB's Las Vegas P.O. Box address.
29	1/3/2017	Defendant DUNICH-KOLB submitted and caused to be submitted to the IRS, an IRS Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, for Tax Year 2014, bearing deceased taxpayer D.D.'s social security number and taxpayer J.L.'s social security number, and

COUNT	APPROX. DATE	DESCRIPTION
		claiming D.D.'s refund should be remitted to taxpayer J.L. at defendant DUNICH-KOLB's Las Vegas P.O. Box address.

In violation of Title 18, United States Code, Section 1028A(a)(1) and
Section 2.

FORFEITURE ALLEGATIONS

1. The allegations contained in Counts 16 through 27 of the Second Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(2)(A) and Title 28, United States Code, Section 2461(c); and the allegations contained in Counts 28 and 29 of the Second Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 982(a)(2)(B) and 1028(b)(5).

2. Upon conviction of one or more of the offenses charged in Counts 16 through 27 of this Second Superseding Indictment, defendant DUNICH-KOLB shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A) and Title 28, United States Code, Section 2461(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense or offenses of conviction, and all property traceable to such property.

3. Upon conviction of one or more of the offenses charged in Counts 28 and 29 of this Second Superseding Indictment, defendant DUNICH-KOLB shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(B), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense or offenses of conviction, and all property traceable to such property, and pursuant to Title 18, United States Code, Section 1028(b)(5), any personal

property used or intended to be used to commit the offense or offenses of conviction.

4. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to 18 U.S.C. §§ 981(a)(1) and 982(a)(2), and 28 U.S.C. § 2461(c).

A TRUE BILL

FOREPERSON 


CRAIG CARPENITO
United States Attorney

CASE NUMBER: 14-150 (KM)

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

WAYNE DUNICH-KOLB

SECOND SUPERSEDING INDICTMENT FOR

26 U.S.C. §§ 7206(2) and 7206(1)
18 U.S.C. §§ 1341, 3147, and 1028A(a)(1)
18 U.S.C. § 2

A True Bill,

Foreperson

CRAIG CARPENITO
UNITED STATES ATTORNEY
NEWARK, NEW JERSEY

SHIRLEY U. EMEHELU
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